

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-9 are remain pending, claims 1-4 and 9 being independent.

**Drawings**

In response to the Examiner's indication that the drawing correction submitted February 25, 2003 has been approved, Applicant has submitted a corrected formal drawing incorporating the approved changes to Fig. 5.

**Rejections Under 35 U.S.C. § 112, ¶¶ 1 and 2**

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Initially, regarding the expression "and/or," Applicant has amended independent claim 1 to specify that the adjusting step adjusts "at least one of: density of the face area based on density information of an area surrounding the face ...; and color of the face area based on color information of the area surrounding the face area..." to further clarify the image processing technique set forth in the claim. In view of this amendment, and similar

amendments to claims 2-4 and 9, Applicant respectfully submits that the question of enablement in relation to the "and/or" expression has been rendered moot.

Regarding the claimed feature of adjusting color of the face area based on color information of the area surrounding the face area, the Examiner asserts on pages 5-6 of the Office Action that:

[T]he applicant fails to provide adequate description of the method of utilizing to adjust the color of the face area, I.e., while the applicant discloses one specific example for the invention (p 8, line 18), the applicant fails to provide an adequate method of utilizing a relationship between color information and the corresponding adjustments of color in the facial area (i.e. how does the invention do it?).

In reply, Applicant wishes to emphasize that the question of enablement requires a determination of whether one of ordinary skill in the art would be required to perform undue experimentation to practice the claimed invention. MPEP § 2164.01. The burden rests on the Examiner to establish a reasonable basis for questioning enablement of the claimed invention and requires the Examiner to consider all evidence related to factors for undue experimentation set forth in MPEP § 2164.01(a).

In this regard, Applicant notes that beginning on page 6, line 11 through page 8, the specification provides detail regarding how the surrounding color density detecting means 4 and adjusting means

5 operate. A specific example of adjusting the color is provided on page 8, lines 19-25.

In this example, the color of the face area A1 is adjusted (into a reddish color in the disclosed example) when the color of the face area A1 has an undesirable appearance due to the color of the surrounding area (blue in the disclosed example). This example makes clear a principle of the disclosed embodiments -- that the color of the face area A1 can be adjusted to counteract an undesired visual effect resulting from color of the surrounding area A2. Applicant respectfully submits that the Office Action fails to support the assertion that one of ordinary skill in the art would require undue experimentation to adjust the color of a face area to counteract the visual effect of other colors of a surrounding area consistent with principles set forth in the disclosure. Accordingly, the Office Action fails to satisfy the test for finding non-enablement. See MPEP § 2164.01.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 112, first paragraph based on lack of enablement.

Claims 1-9 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Applicant respectfully submits that the amendments to claim 1 discussed above, and similar amendments to claims 2-4 and 9, have likewise addressed the asserted grounds of indefiniteness set forth on page 6 of the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph based on indefiniteness.

**Prior Art Rejections**

Claims 1-5 and 7-9 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by *Chen* (U.S. Patent 6,141,442). Claim 6 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over *Chen*. These rejections are respectfully traversed.

Independent claim 1 is directed to an image processing method for carrying out image processing on an image including a figure. As amended, the image processing method recited in claim 1 comprises: extracting a face area of the figure from the image; and adjusting at least one of: density of the face area based on density information of an area surrounding the face area so as to compensate for an effect of density of the area surrounding the face area on visual perception of the density of the face area; and color of the face area based on color information of the area surrounding the face area so as to compensate for an effect of

color of the area surrounding the face area on visual perception of the color of the face area.

*Chen* discloses a video sequencing coding/decoding scheme, which divides image data into subject regions and non-subject regions. In one implementation illustrated in Fig. 15, the subject region is a face area. To increase compression efficiency, pixel values belonging to the non-subject region are assigned to a replacement pixel value  $C_n$ , which indicates a color that is not likely to be mistaken for a color in the subject region. Col. 8, ll. 25-29. In rejecting independent claim 1 as being anticipated by *Chen*, the Examiner relies on Fig. 17 and col. 15, ll. 4-15, which appear to describe how to regenerate the image based on a plurality of threshold values in color space, where a first threshold  $T_1$  defines a small region around a background color replacement value  $C_0$  and a second threshold  $T_2$  represents a region closer to color values of the subject region.

The video sequencing coding/decoding scheme of *Chen* does not adjust at least one of "density of [a] face area based on density information of an area surrounding the face area so as to compensate for an effect of density of the area surrounding the face area on visual perception of the density of the face area; and color of the face area based on color information of the area surrounding the face area so as to compensate for an effect of

color of the area surrounding the face area on visual perception of the color of the face area" as required by independent claim 1.

According to MPEP § 2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989).

Based at least on the above reasoning, Applicant respectfully submits that *Chen* fails to anticipate claim 1 or any claim depending therefrom. Furthermore, Applicant submits that independent claims 2-4 and 9 define over *Chen* based on similar reasoning to that set forth above with respect to claim 1.

Furthermore, Applicant respectfully submits that the obviousness-type rejection of dependent claim 6 fails to establish *prima facie* obviousness of claim 1 or any claim depending therefrom.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the Examiner's prior art rejections based on *Chen*.

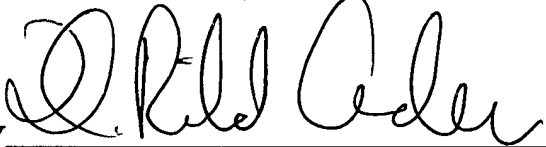
Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment: Corrected Fig. 5